



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2016-0327; FRL-9970-14-Region 5]

Air Plan Approval; Minnesota; State Board Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) submission from Minnesota addressing the state board requirements of the Clean Air Act (CAA). EPA is also approving elements of Minnesota's submission addressing the infrastructure requirements relating to state boards for the 1997 ozone, 1997 fine particulate (PM_{2.5}), 2006 PM_{2.5}, 2008 lead (Pb), 2008 ozone, 2010 nitrogen dioxide (NO₂), 2010 sulfur dioxide (SO₂), and 2012 PM_{2.5} National Ambient Air Quality Standards (NAAQS). The proposed rulemaking associated with this final action was published on July 17, 2017, and EPA received no comments during the comment period, which ended on August 16, 2017.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2016-0327. All documents in the docket are listed on the www.regulations.gov web site. Although

listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Eric Svingen, Environmental Engineer, at (312) 353-4489 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Eric Svingen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-4489, svingen.eric@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is the background of this SIP submission?
- II. What guidance is EPA using to evaluate this SIP submission?
- III. What is the result of EPA's review of this SIP submission?

IV. What action is EPA taking?

V. Incorporation by Reference

VI. Statutory and Executive Order Reviews

I. What is the background of this SIP submission?

This rulemaking addresses a SIP submission from the Minnesota Pollution Control Agency (MPCA) dated May 26, 2016, which addresses CAA requirements relating to the state board requirements under section 128, as well as infrastructure requirements of section 110 relating to state boards for the 1997 ozone, 1997 PM_{2.5}, 2006 PM_{2.5}, 2008 Pb, 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS.

The requirement for states to make infrastructure SIP submissions arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions "within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof)," and these SIP submissions are to provide for the "implementation, maintenance, and enforcement" of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that "[e]ach such plan" submission must address.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA section 110(a)(1) and (2) as "infrastructure SIP" submissions. Although the term "infrastructure SIP" does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA. This specific rulemaking is only taking action on the CAA 110(a)(2)(E)(ii) element of these infrastructure SIP requirements.

II. What guidance is EPA using to evaluate this SIP submission?

EPA's guidance relating to infrastructure SIP submissions can be found in a guidance document entitled "Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and PM_{2.5}¹ National Ambient Air Quality Standards" (2007 Guidance). Further guidance is provided in a September 13, 2013, document entitled "Guidance on Infrastructure State Implementation Plan (SIP) Elements under CAA Sections 110(a)(1) and (2)" (2013 Guidance).

III. What is the result of EPA's review of this SIP submission?

Pursuant to section 110(a), states must provide reasonable notice and opportunity for public hearing for all infrastructure SIP submissions. MPCA provided public notice for the SIP

¹ PM_{2.5} refers to particles with an aerodynamic diameter of less than or equal to 2.5 micrometers, oftentimes referred to as "fine" particles.

revision on April 4, 2016, commenced a public comment period on April 5, 2016, and closed the public comment period on May 5, 2016. No comments were received nor were there any requests for a public hearing.

Minnesota provided a detailed synopsis of how various components of its SIP meet each of the applicable requirements in sections 128 and 110(a)(2)(E)(ii) for the 1997 ozone, 1997 PM_{2.5}, 2006 PM_{2.5}, 2008 Pb, 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS, as applicable.

On July 17, 2017 (82 FR 32669), EPA published a proposed rule that would approve these submissions into Minnesota's SIP. This proposed rule contained a detailed evaluation of how Minnesota's submission satisfies certain requirements under CAA sections 110 and 128. No comments were received. Therefore, EPA is finalizing this rule as proposed.

IV. What action is EPA taking?

EPA is taking final action to incorporate Minn. Stat. 10A.07, Minn. Stat. 10A.09, and Minn. R. 7000.0300 into Minnesota's SIP. EPA is further approving this submission as meeting CAA obligations under section 128, as well as 110(a)(2)(E)(ii) for the 1997 ozone, 1997 PM_{2.5}, 2006 PM_{2.5}, 2008 Pb, 2008 ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} NAAQS.

V. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Minnesota Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through www.regulations.gov and at the EPA Region 5 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.²

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as

² 62 FR 27968 (May 22, 1997).

meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of

Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations, Lead,
Nitrogen dioxide, Ozone, Particulate matter, Reporting and
recordkeeping requirements, Sulfur oxides, Volatile organic
compounds.

Dated: October 17, 2017.

Robert A. Kaplan,
Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In §52.1220:

a. In the table in paragraph (c):

i. Add the heading entitled "CHAPTER 7000 PROCEDURAL RULES" at the beginning of the table and the entry "7000.0300".

ii. Add the entries "10A.07" and "10A.09" in numerical order under the subheading entitled "Minnesota Statutes".

b. In the table in paragraph (e):

i. Revise the entry "Section 110(a)(2) Infrastructure Requirements for the 1997 8-hour Ozone NAAQS".

ii. Revise the entry "Section 110(a)(2) Infrastructure Requirements for the 1997 PM_{2.5} NAAQS".

iii. Revise the entry currently named "Section 110(a)(2) Infrastructure Requirements for the 2006 24-Hour Ozone NAAQS" to read "Section 110(a)(2) Infrastructure Requirements for the 2006 24-Hour PM_{2.5} NAAQS".

iv. Revise the entry "Section 110(a)(2) Infrastructure Requirements for the 2008 lead (Pb) NAAQS".

v. Revise the entry "Section 110(a)(2) Infrastructure Requirements for the 2008 ozone NAAQS".

vi. Revise the entry "Section 110(a)(2) Infrastructure Requirements for the 2010 nitrogen dioxide (NO₂) NAAQS".

vii. Revise the entry "Section 110(a)(2) Infrastructure Requirements for the 2010 sulfur dioxide (SO₂) NAAQS,".

viii. Revise the entry "Section 110(a)(2) Infrastructure Requirements for the 2012 fine particulate matter (PM_{2.5}) NAAQS".

The additions and revisions read as follows:

§52.1220 Identification of plan.

* * * * *

(c) * * *

EPA--APPROVED MINNESOTA REGULATIONS

Minnesota citation	Title/subject	State effective date	EPA approval date	Comments
CHAPTER 7000 PROCEDURAL RULES				
7000.0300	Duty of candor	4/19/2004	[insert date of publication in the Federal Register], [insert Federal Register citation]	
* * * * *				
Minnesota Statutes				
10A.07	Conflicts of interest	5/25/2013	[insert date of publication in the Federal Register], [insert Federal Register citation]	
10A.09	Statements of economic interest	5/23/2015	[insert date of publication in the Federal Register], [insert Federal Register citation]	
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(e) * * *

EPA-APPROVED MINNESOTA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Comments
* * *	* *	* *		
Section 110(a)(2) Infrastructure Requirements for the 1997 8-Hour Ozone NAAQS	Statewide	11/29/2007 and 5/26/2016	[insert date of publication in the Federal Register], [insert Federal Register citation]	CAA elements 110(a)(2)(A), (B), (C) with respect to enforcement, (D)(ii), (E) through (H), (J) except for prevention of significant deterioration (PSD), and (K) through (M) have been approved. CAA elements 110(a)(2)(C) and (J) with respect to PSD have been disapproved.
Section 110(a)(2) Infrastructure Requirements for the 1997 PM _{2.5} NAAQS	Statewide	11/29/2007 and 5/26/2016	[insert date of publication in the Federal Register], [insert Federal Register citation]	CAA elements 110(a)(2)(A), (B), (C) with respect to enforcement, (D)(ii), (E) through (H), (J) except for prevention of significant deterioration (PSD), and (K) through (M) have been approved. CAA elements 110(a)(2)(C) and (J) with respect to PSD have been disapproved.
Section 110(a)(2) Infrastructure Requirements for the 2006 24-Hour PM _{2.5} NAAQS	Statewide	5/23/2011, 6/27/2012 and 5/26/2016	[insert date of publication in the Federal Register], [insert Federal Register citation]	These actions address the following CAA elements: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). We have not finalized action on the visibility protection requirements of (D)(i)(II). We will address these requirements in a separate action. Although EPA has disapproved portions of Minnesota's submission addressing the prevention of

				significant deterioration, Minnesota continues to implement the Federally promulgated rules for this purpose as they pertain to section 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J).
Section 110(a)(2) Infrastructure Requirements for the 2008 lead (Pb) NAAQS	Statewide	6/19/2012 and 5/26/2016	[insert date of publication in the Federal Register], [insert Federal Register citation]	These actions address the following CAA elements: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). Although EPA has disapproved portions of Minnesota's submission addressing the prevention of significant deterioration, Minnesota continues to implement the Federally promulgated rules for this purpose as they pertain to section 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J).
Section 110(a)(2) Infrastructure Requirements for the 2008 ozone NAAQS.	Statewide	6/12/2014 and 5/26/2016	[insert date of publication in the Federal Register], [insert Federal Register citation]	These actions address the following CAA elements: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). We are not taking action on (D)(i)(I) or the visibility portion of (D)(i)(II). We will address these requirements in a separate action. EPA has disapproved the elements related to the prevention of significant deterioration, specifically as they pertain to section 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J); however, Minnesota continues to

				implement the Federally promulgated rules for this purpose.
Section 110(a)(2) Infrastructure Requirements for the 2010 nitrogen dioxide (NO ₂) NAAQS.	Statewide	6/12/2014 and 5/26/2016	[insert date of publication in the Federal Register], [insert Federal Register citation]	These actions address the following CAA elements: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). We have not taken action on the visibility portion of (D)(i)(II). We will address these requirements in a separate action. EPA is disapproving the elements related to the prevention of significant deterioration, specifically as they pertain to section 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J); however, Minnesota continues to implement the Federally promulgated rules for this purpose.
Section 110(a)(2) Infrastructure Requirements for the 2010 sulfur dioxide (SO ₂) NAAQS.	Statewide	6/12/2014 and 5/26/2016	[insert date of publication in the Federal Register], [insert Federal Register citation]	These actions address the following CAA elements: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). We have not taken action on (D)(i)(I) or the visibility portion of (D)(i)(II). We will address these requirements in a separate action. EPA has disapproved the elements related to the prevention of significant deterioration, specifically as they pertain to section 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J); however, Minnesota continues to

				implement the Federally promulgated rules for this purpose.
Section 110(a)(2) Infrastructure Requirements for the 2012 fine particulate matter (PM _{2.5}) NAAQS.	Statewide	6/12/2014 and 5/26/2016	[insert date of publication in the Federal Register], [insert Federal Register citation]	These actions address the following CAA elements: 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). We are not taking action on (D)(i)(I) or the visibility portion of (D)(i)(II). We will address these requirements in a separate action. EPA has disapproved the elements related to the prevention of significant deterioration, specifically as they pertain to section 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J); however, Minnesota continues to implement the Federally promulgated rules for this purpose.

[FR Doc. 2017-23461 Filed: 11/1/2017 8:45 am; Publication Date: 11/2/2017]